

LFC Requester:**Marty Daly**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**

Correction **Substitute**

Date 01-22-16

Bill No: SB 146

Sponsor: Senator Ron Griggs

Agency Code: 305

Short Correction of Errors Affecting

Person Writing Ismael L. Camacho

Title: Property

Phone: 575-526-2280 **Email** ICamacho@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

BILL SUMMARY**Synopsis:**

Senate Bill 146 in Section 1(A) amends Chapter 47, Article 1 NMSA 1978 by adding new material that provides for the use of a "scrivener's error affidavit" to correct drafting or clerical errors relating to real property. A scrivener's affidavit may correct: omissions of words; name of subdivision; recording plat information; metes and bounds description; spelling of a name; middle initial; grantee's address; and "the legal type or state of domicile of a corporation or other legal entity."

In subsection (B), Senate Bill 146 designates who may execute the affidavit, e.g. the licensed attorney who prepared the original instrument or a current employee of a licensed title insurer or title insurance agent, under the NM Title Insurance Law.

SB 146 limits affiant scrivener's correction to: error on a deed or other legal document prepared in conjunction with the closing of a transaction affecting the title to real property; for an error on a mortgage or deed of trust; for an error on a power of attorney or an easement; and for an error on any other writing affecting title to real estate.

In subsection (C), Senate Bill 146 mandates the scrivener's affidavit is sworn to and notarized under penalty of perjury by an affiant with: actual knowledge and competent; requires conspicuous title identification e.g. scrivener's affidavit or scrivener's error affidavit; and identification of person or entity, name of all parties to the original instrument, brief description of error sought corrected, and contain the correction to any insertion or removal.

In subsection (D), Senate Bill 146 requires scrivener's affidavit be recorded by and at the county clerk where property is located, indexed under the name of the original parties; and exempts the scrivener's affidavit pursuant to the Rules of Evidence, see 11-803(8).

Senate Bill 146 is not deemed to prohibit any other manner to correct errors in writing by any lawful means, or, require the county assessor or county treasurer to change its records.

FISCAL IMPLICATIONS N/A**SIGNIFICANT ISSUES**

Senate Bill 146 does not allow for a lay person (other than those identified) to be a qualified affiant scrivener.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

It is unclear if any licensed attorney who prepared the original instrument, means a New Mexico licensed attorney or an attorney licensed in any state.

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS

N/A